

# **TAB 4**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT CHARLESTON

\_\_\_\_\_ X  
THE CITY OF HUNTINGTON, : Civil Action  
Plaintiff, : No. 3:17-cv-01362  
v. :  
AMERISOURCEBERGEN DRUG :  
CORPORATION, et al., :  
Defendants. :  
\_\_\_\_\_ X  
CABELL COUNTY COMMISSION, : Civil Action  
Plaintiff, : No. 3:17-cv-01665  
v. :  
AMERISOURCEBERGEN DRUG :  
CORPORATION, et al., :  
Defendants. :  
\_\_\_\_\_ X

BENCH TRIAL - VOLUME 4  
BEFORE THE HONORABLE DAVID A. FABER, SENIOR STATUS JUDGE  
UNITED STATES DISTRICT COURT  
IN CHARLESTON, WEST VIRGINIA

MAY 6, 2021

1       **Q.**    Let me ask you to look just a little further down on  
2           this same page. It's in "Discussion and Recommendations."

3           And there you say in the first sentence, "The most  
4           promising approaches to opioid prescribing combine education  
5           and tools for all prescribers with an enhanced enforcement  
6           for the relatively few prescribers who are violating  
7           standards of care."

8           Do you see that?

9       **A.**    I do.

10      **Q.**    And I think this is exactly what we were talking about,  
11           Dr. Gupta, but let me just confirm it.

12           When you talk about a promising approach to address  
13           opioid prescribing is education and tools for all  
14           prescribers, that was to address the problem of the good  
15           doctor who was writing for too many days; correct?

16      **A.**    Correct, and, and also make sure that the bad doctors  
17           were understanding that these tools and other things were  
18           available as well.

19      **Q.**    Exactly. So for all doctors, the point was educate  
20           them more that if you've got a kid with a high school knee  
21           injury, don't send him home with 30 days of pills. Send him  
22           home with a fewer number of days of pills. Correct?

23      **A.**    We believe if we can help educate doctors and other  
24           prescribers and provide those tools, especially in terms of  
25           the best knowledge in opioid prescribing, it would help make

1 a dent in the entire volume problem.

2 And then we'd be left with the bad doctors and we would  
3 have to obviously -- the second statement, part of the  
4 statement says "enhance enforcement." It would help us get  
5 better control over the bad doctors.

6 **Q.** But let's keep focusing on the good doctors. I haven't  
7 asked you about the bad doctors. But on the good doctors,  
8 you've actually seen this play out, haven't you, that this  
9 thinking that you have has led to a significant reduction in  
10 opioid prescribing levels in West Virginia because doctors  
11 become better educated. Correct?

12 **A.** I would say amongst a number of other factors.  
13 Clearly, the education, the tools have been helpful in  
14 reducing and changing the culture of, of writing large  
15 prescriptions, high dose for long periods.

16 **Q.** Let's talk about the second half. There's a reference  
17 to enhanced enforcement for the relatively few prescribers  
18 who are violating standards of care. Do you see that?

19 **A.** Yes.

20 **Q.** So when you say there are relatively few prescribers  
21 who are violating the standards of care, your point is most  
22 prescribers thought they were doing the right thing with the  
23 standard of care at the time and there were relatively few  
24 who weren't?

25 **A.** Yeah. There were more prescribers trying to do the

1 right thing than those who weren't, meaning in West Virginia  
2 there were more good doctors than bad doctors at any one  
3 point in time.

4 **Q.** Most of the doctors thought they were doing the right  
5 thing. As you said, they were sending somebody home trying  
6 to treat their pain. They thought they were doing the right  
7 thing, but they were giving too many pills.

8 **A.** Their intent was to help their patient because that was  
9 the culture. That was the education. That was the  
10 influence. That was their understanding.

11 **Q.** And, and you and others in the State of West Virginia  
12 have worked on changing that culture of prescribing behavior  
13 to tighten it up; correct?

14 **A.** We have tried to do our best.

15 **Q.** But -- again, at the end of the day, you ultimately  
16 have to rely on the good judgment and thoughtful approach of  
17 individual doctors to get prescribing under control;  
18 correct?

19 **A.** Yes, but there's a number of factors that influences  
20 that judgment.

21 One of those things we did in Bureau of Public Health  
22 was we began something called counter-detailing. This is,  
23 this is our folks going to doctors' offices and providing  
24 them this education and tools, knowing there was already  
25 detailing happening that was telling them the other way